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OFFICE OF THE DISTRICT MAGISTRATE, CHANDIGARH

## Order under Section 144 Cr.P.C.

The 16th December, 2022

**No. DM/MA/2022/28857.**—Whereas, it has been made to appear to me that Hookah Bars are operational in Chandigarh in a clandestine way, which are serving flavored Hookahs including tobacco molasses containing nicotine, which is highly injurious to health of people and at times there is a suspicion that apart from tobacco, other harmful narcotic chemicals are also mixed with tobacco molasses served in these Hookah Bars.

Whereas, the Hookah in many of these Bars is being smoked/consumed by the people/customers through a common bowl, pipe and a hose having mouth piece, which is susceptible to physical mouth to mouth touch of many persons, thus posing danger to human life, health and safety by becoming a cause of as well as leading to the transmission & spread of pandemic COVID-19 in Chandigarh.

Hence, the undersigned is of the opinion that immediate prevention of the above said practice is desirable in view of the general health and goodwill of the public.

Therefore, I, Vinay Pratap Singh, I.A.S., District Magistrate, Chandigarh, exercising the power vested upon me under section 144 of the Cr.P.C., hereby order that no Hookah shall be served for smoke/consumption in Hotels/Restaurants/Taverns/Bars/Hookah Bars, etc. The Hookah Bars are thus banned to operate in Chandigarh with respect to their offering Hookahs to the visitors.

This order shall come into force **from zero hours on 16.12.2022** and shall be effective for a period of sixty days **up to and including 13.02.2023**.

In view of the emergent nature of the order, it is being issued *ex parte* and is addressed to the public in general. Any person violating this order shall be punished under section 188 of the I.P.C.

This order shall be promulgated by affixing copies thereof on the notice boards of the office of the under-signed and by publication in the newspapers through the office of the D.P.R., Chandigarh.

Given under my hand and seal on 15-12-2022.

Signature Not Verified  
Digitally signed by  
Jalinder Kumar  
Date: 2022.12.20  
12:01:51 IST  
Reason: Published  
Location:

VINAY PRATAP SINGH, I.A.S.,  
District Magistrate,  
Chandigarh.

(1221)

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CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT

**Notification**

The 21st November, 2022

**No. 13/1/9911-HII(2)-2022/17302.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 12/2018 dated 29.09.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

JASBIR SINGH RANA S/O SHRI BANTA RAM R/O H.NO. 1320, SAINI VIHAR, PHASE-3, BALTANA, ZIRAKPUR, DISTRICT SAS NAGAR. (Workman)

AND

CHECKMATE INDUSTRIAL GUARDS PVT. LIMITED, SCO 22, SECTOR 33-D, CHANDIGARH.

2ND ADDRESS: CHECKMATE INDUSTRIAL GUARDS PVT. LIMITED, C-250, SECTOR 63, NOIDA (UP) PIN CODE 201307 THROUGH ITS MANAGING DIRECTOR (Management)

**AWARD**

1. The workman, Jasbir Singh Rana, has filed statement of claim under the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that the workman joined the management from 12.08.2011 to 17.01.2012 on casual basis and thereafter from 18.01.2012 as regular employee at their office situated at SCO No.22, Cabin B-2, Sector 33-D, Chandigarh. At the time of illegal termination the workman was in receipt of wages of ₹ 13,611/- per month. The management without complying with the principles of natural justice and without providing opportunity during domestic inquiry, in haste with ulterior motive dispensed with the services of the workman *vide* letter dated 31.05.2016 w.e.f. 31.05.2016. During the inquiry the workman was told that since it was a minor misconduct and the workman is to submit apology. On the assurance, the workman submitted apology letter but the management without taking lenient view as assured, dispensed the services of the workman. The punishment of dispensing from the services is arbitrary, illegal and disproportionate to the minor misconduct. All along the tenure of service, the workman and performance of the workman has been satisfactory. No disciplinary action has been initiated by the management whatsoever. The management has increased wages of the workman from time to time. The management is known for being closed minded towards the workmen whereby the legally permissible benefits / privileges are not extended so much so that even the minimum wages as fixed or revised under the Minimum Wages Act, 1948 are not being paid to the workmen. Besides, the records are not properly maintained. The workman has been forced to remain unemployed and is continuing to be out of employment due to high-headedness of the management. During the conciliation proceedings before the Assistant Labour Commissioner-cum-Conciliation Officer, Chandigarh no settlement could be arrived. The workman has been informed to file statement of claim before the Hon'ble Tribunal, hence, the statement of claim. The termination order is illegal. Prayer is made that an award may be passed directing the management to reinstate the workman with continuity of service, full back wages, seniority and all consequential benefits.

2. On notice, the management contested the claim statement by filing written statement on 08.10.2018 wherein the preliminary objection are raised on the ground that the claimant does not answer the description of the workman as defined under Section 2(s)(iii)(iv) of the ID Act. The said fact was duly furnished by the management before the Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. Making order of reference in respect of such employee who is not a workman is not justifiable apart from being illegal and contrary to the facts. As such on this ground, no proceedings can be held nor any relief can be granted on such an order of reference. The order of reference has been made in a mechanical manner without application of mind. The authority making the order of reference has made the order in excess of and/or

without the proper jurisdiction vested in it. Besides this, the claimant has not approached the Court with clean hands and has concealed the material facts that he is not a 'workman'. Thus, the statement of claim is not maintainable.

3. Further on merits, it is stated that the facts so far relates to the date of joining the services of the claimant with the management are false, incorrect and baseless. The claimant for the very first time approached the management on 11.01.2012 and submitted his *bio-data* for the post of Office Superintendent-cum-Field Officer and subsequent to the interview and acceptance of terms & conditions contained in the appointment letter / agreement of employment by the claimant, he was employed on the post applied for w.e.f. 18.01.2012. It is incorrect that the services of the claimant were illegally terminated. The last drawn wages of the claimant were ₹ 16,695/- per month and not ₹ 13,611/- per month. The statement of claim is false incorrect, misconceived and baseless so far it relates to the services of the claimant being dispensed with in arbitrary, illegal and disproportionate manner. It is true that the claimant was involved in an act of indiscipline / misconduct. However, the claimant's averments of its being a minor misconduct is merely self-serving and afterthought. Further the claimant never took part in the inquiry proceedings. Accordingly, the claimant's plea that during the inquiry he was told that it is a minor misconduct and to submit apology on management's assurance of taking lenient view is concocted and afterthought. The true facts are that the claimant amongst other things was managing the deployment of Security Guards / Security Supervisors at client premises. The claimant was served with a charge sheet dated 14.04.2016 that he had deployed an unauthorised person, who was not the employee of the management for guarding duties and had made false entries in the attendance register thereto. In his reply dated 20.04.2016 to the charge sheet, the claimant stated that it was merely a lapse. The management was unsatisfied with the claimant's evasive reply coupled with his cavalier approach to an otherwise serious matter. The claimant was asked to participate in the inquiry, wherein it was to be enquired that as to how an unknown person having no verification of his antecedents, formal recruitment and training was put on duty by the claimant for performing the crucial duties of Security Guard. Such an act could not have been merely treated as lapse when the human life and material is put in peril by entrusting the duties of an unskilled and unauthorised person. The claimant on one pretext or other, wilfully failed to participate in the inquiry, even though he was afforded the opportunity on two different occasions by the management. *Vide* notice as well reminder, the claimant was put on notice that the management would be well within its right to proceed with the matter as deemed fit, if the claimant did not participate in the inquiry. Given the non-cooperative attitude and continued wilful defiance of the claimant which was in contravention to the terms & conditions contained in his appointment letter, employment agreement, the management was constrained to dispense with the services of the claimant w.e.f. 31.05.2016. The management is law abiding company and complies with all the statutes in so far they are applicable to it. The claimant has levelled the frivolous allegations just to create bias against the management, out of frustration as the claimant has nothing material to state. The claimant cannot take advantage of his own failure / shortcomings by fastening the liability on the management and by abusing the process of law. No able bodied person, who is willing and desirous of working can remain unemployed for long. The claimant approached the office of Assistant Labour Commissioner, more with the reason and intent of harassing the management and less with the reason and intent of conciliation. To further his vexatious designs, the claimant had approached the authority under the Payment of Gratuity Act, The District Consumer Forum and had filed an application under Section 33-C(2) which is pending for adjudication before this Court. The claimant is abusing the process of law now before this Court with the similar reason and intend. The claimant is not entitled to receive any relief from the management and from this Court. No cause of action has accrued to the claimant. The claimant has filed the present claim solely to harass the management with a view to cause wrongful gain to himself by abusing the process of law. Rest of the averments of claim statement are denied as wrong and prayer is made that the statement of claim may be dismissed with special costs.

4. Replication not filed. From the pleadings of the parties, following issues were framed *vide* order dated 20.03.2019 :—

1. Whether the services of Shri Jasbir Singh Rana were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW



2. Whether Shri Jasbir Singh Rana is not a 'workman' as defined under Section 2(s) of the ID Act ? OPM
3. Relief.

5. In evidence, the workman / claimant Jasbir Singh Rana examined himself as AW1 and tendered his affidavit (due to inadvertence, the affidavit of AW1 is not exhibited, which is merely a clerical error. If exhibit number is allowed to be put on the affidavit, it will not cause any prejudice to the interest of the opposite party as the opposite party has already availed an opportunity and has conducted the cross-examination of AW1 at length. Therefore, the affidavit tendered by AW1 is ordered to be numbered as Exhibit 'AW1/A'). Along with the affidavit AW1 has tendered documents i.e. his appointment letter dated 18.01.2022 *vide* Exhibit 'P1'; copy of result / increment letter, appraisal 2014-15 for staff CIGPL dated 11.06.2015 relating to claimant *vide* Exhibit 'P2'; copy of order of dismissal dated 31.05.2016 *vide* Exhibit 'P3'. The original of documents Exhibit 'P1' to 'P3' were produced at the time of recording the testimony of AW1 which were seen and returned. On 23.09.2021 learned representative for the workman closed evidence of the workman.

6. On the other hand, the management examined MW1 Ashish Kumar - Assistant Manager-Operations of the management company, who tendered his affidavit Exhibit 'MW1/A' along with documents Exhibit 'R1' to 'R11' and Mark 'A' & 'B'.

**Exhibit 'R1'** is authority letter dated 09.12.2021 issued by the management in favour of Ashish Kumar - Assistant Manager-Operations

**Exhibit 'R2'** is the certified copy of bio-data dated 11.01.2012 submitted by the claimant-workman to the management for the post of Office Superintendent-cum-Field Officer for Chandigarh office, bearing office endorsement of management dated 18.01.2012.

**Exhibit 'R3'** is attested copy of appointment letter dated 18.01.2012 issued by the management to the claimant-workman appointing him as Office Superintendent-cum-Field Officer in Chandigarh with salary package as per Annexure 'I' enclosed with the appointment letter.

**Exhibit 'R4'** is certified copy of order dated 02.07.2019 passed by the Court of Ms. Anshul Berry, Presiding officer, Industrial Tribunal & Labour Court, U. T. Chandigarh bearing LCANo.39/2016 between Jasbir Singh Rana and Checkmate Industrial Guard Private Limited whereby the claim application under Section 33-C(2) of the ID Act was dismissed.

**Exhibit 'R5'** is attested copy of annual appraisal form staff CIGPL year 2012-13 relating to claimant.

**Exhibit 'R6'** is attested copy of annual appraisal form staff CIGPL year 2013-14 relating to claimant

**Exhibit 'R7'** is attested copy of annual appraisal form staff CIGPL year 2014-15 relating to claimant.

**Exhibit 'R8'** is the reply filed by the claimant-workman J. S. Rana, Field Officer, Chandigarh to the Managing Director of the management with reference to charge sheet dated 14.04.2016.

**Exhibit 'R9'** is copy of reminder dated 20.05.2016 issued under registered cover by the management to the claimant for participating in the inquiry along with original postal receipt dated 20.05.2016.

**Exhibit 'R10'** is copy of order of dismissal dated 31.05.2016.

**Exhibit 'R11'** is copy of receipt of full & final settlement.

**Mark 'A'** is copy of charge sheet dated 14.04.2016 issued by the management to the claimant for gross misconduct.

**Mark 'B'** is copy of the letter dated 16.05.2016 issued by the management to the claimant requiring him to attend the inquiry proceedings.

On 29.09.2022 Ashish Kumar - Assistant Manager Operation closed the evidence on behalf of the management.

7. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise finding are as below :—

**Issue No. 1 :**

8. Onus to prove this issue is on the workman.

9. Under this issue the workman Jasbir Singh Rana examined himself as AW1 and *vide* his affidavit Exhibit 'AW1/A' deposed the contents of claim statement in totto and supported his oral version with documents Exhibit 'P1' to Exhibit 'P3'.

10. On the other hand, the management examined MW1 Ashish Kumar, who *vide* his affidavit Exhibit 'MW1/A' deposed all the contents of the written statement and supported his oral version with documents Exhibit 'R1' to Exhibit 'R11' and Mark 'A' & Mark 'B'.

11. From the oral as well documentary evidence, it comes out that the claimant workman has alleged that he was an employee of the management. The management did not dispute the fact that the claimant workman was employee of the management but the date when the claimant-workman joined the management is disputed. The plea of the claimant-workman that he joined the management on 12.08.2021 and worked up to 17.01.2012 on casual basis does not stand proved because no document is proved into evidence such as appointment letter dated 12.08.2021 or any record of payment of salary / wages to the claimant workman by the management during the period from 12.08.2011 to 17.01.2012.

12. There is no dispute with regard to the fact that the claimant-workman applied to the post of Superintendent-cum-Officer on 11.01.2012 and was issued appointment letter dated 18.01.2012. Moreover, from Exhibit 'R2' i.e. certified copy of bio-data dated 11.01.2012 submitted by the claimant-workman to the management for the post of Office Superintendent-cum-Field Officer for Chandigarh office, bearing office endorsement of management dated 18.01.2012 it is duly proved on record that the claimant-workman applied with the management on 11.01.2012. From Exhibit 'R3' it is further proved that the claimant-workman was appointed w.e.f. 18.01.2012 to the post of Office Superintendent-cum-Field Officer at Chandigarh.

13. From the annual appraisal reports Exhibit 'R5' to Exhibit 'R7', it is made out that as per the remarks recorded by the reporting authority, the assessment of the work of the claimant-workman is below average.

14. From Exhibit 'R8' it is further proved that the management issued charge sheet dated 14.04.2016 to the claimant-workman on the allegation of gross misconduct to which the claimant-workman replied as under :—

*"1. Reference your letter dated 14 April 2016 received on 20/04/2016.*

*2. Reply of the undersigned on above mentioned letter is as under :*

*(a) No intention of the undersigned to made any false entry in attendance register but this has done only to save the money of guard due to deduction of Rs.1500 on account of Security deposit and paper charges. SG Kishori Thakur requested undersigned for 07 days leave to proceed his home town at Bihar state. He also requested that his brother will perform duties in his absence. This has been occurred due to above mentioned reasons. Facts were also explained by the undersigned to Investigating Officer during the investigation and he has agreed the same.*

*3. Now ID No has been allotted to SG Gajender Thakur and he is performing duty.*

*4. Lapse is regretted and not be repeated in future."*

15. In cross-examination claimant-workman / AW1 admitted as correct that he was issued charge sheet dated 14.04.2016. AW1 admitted as correct that he had filed reply o the charge sheet *vide* letter dated 20.04.2016. AW1 admitted as correct that thereafter he received the letter from the management for inquiry. The claimant-workman in the claim statement averred that he tendered apology letter on the assurance of the management that it will take lenient view. In this regard AW1 in his cross-examination stated that he has given

apology letter to the management after discussing the matter with Lt. Col. J. S. Leikhari and posted the letter to the Head Office at Noida. The claimant-workman's plea that the management had given assurance to take lenient view does not find any corroboration. Exhibit 'R8' sufficiently proved on record that the claimant-workman admitted the allegations of charge sheet and tendered written apology in the form of reply i.e. Exhibit 'R8'. The claimant-workman did not join the inquiry proceedings despite knowledge and despite issuance of the notice dated 16.05.2016 / Mark 'B' and despite issuance of reminder dated 20.05.2016 under registered cover *vide* Exhibit 'R9'. In the cross-examination of AW1 referred above, it is admitted by him that he received the letter from the management for inquiry. The explanation offered during cross-examination by the claimant-workman for non-joining inquiry that the management was not paying him to and fro expenses for conducting an inquiry at other place than Chandigarh is not plausible. There is nothing on record to assume that the Inquiry Officer was biased against the claimant-workman. Moreover, from Exhibit 'R11' it is duly proved on record that the claimant-workman has received amount of ₹ 14,764/- towards the full & final settlement of his account with the company. The claim application filed by the claimant-workman under Section 33-C(2) of the ID Act seeking unpaid wages for the month of May, 2016, encashment of un-availed earned leaves for 139 days, over time of 198 hours, bonus for the year 2015-16 and 10 times penalty has already been dismissed by the Presiding Officer, Industrial Tribunal & Labour Court, Union Territory Chandigarh *vide* order Exhibit 'R4'.

16. In view of the discussion made above, the order of dismissal dated 13.05.2016 / Exhibit 'P3' as well as Exhibit 'R10' is legal and valid as the same has been passed by the appropriate authority of the management in due compliance with the principles of natural justice by issuing charge sheet, taking reply to the charge sheet, holding inquiry after affording opportunity to the claimant-workman to join the inquiry proceedings. The claimant-workman did not wilfully join the inquiry proceedings.

17. Accordingly, this issue is proved against the claimant-workman and in favour of the management.

**Issue No. 2 :**

18. Onus to prove this issue is on the management.

19. The management has taken the preliminary objection that the claimant is not a workman as defined in Section 2(s)(iii)& (iv) of the ID Act. It is admitted fact of the parties that the claimant on 18.01.2012 joined at the post of Superintendent-cum-Field Officer with the management on the basis of appointment letter Exhibit 'R3'. MW1 deposed that the claimant was performing duties as per his designation. From the reply to the charge sheet i.e. Exhibit 'R8' it is sufficiently proved on record that the claimant-workman was managing the conduct and discipline of the Security Guards and used to adjust the Security Guards and to send them on leave. As per Exhibit 'R8' the claimant deputed an unauthorised person to perform duty during the period SG Kishori Thakur proceeded on leave. Thus, as per the designation the claimant-workman was working as Office Superintendent-cum-Field Officer and he was discharging functions and was acting in a supervisory capacity. Therefore, the claimant-workman does not fall within the definition of 'workman' as defined in Section 2(s) of the ID Act.

20. Accordingly, this issue is proved in favour of the management and against the claimant-workman.

**Relief :**

21. In the view of foregoing finding on the issues above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 29th September, 2022.

(Sd.). . .,  
(JAGDEEP KAUR VIRK)  
Presiding Officer,  
Industrial Tribunal & Labour Court,  
Union Territory Chandigarh.  
UID No.PB0152.

CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT**Notification**

The 05th December, 2022

**No. 13/1/9915-HII(2)-2022/18054.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. 83/2018 dated 10.10.2022 delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

POONGOTHAI D/O SH MURUGAN W/O CHINASWAMI, WORKING AS WC (DAILY WAGE), R/O HOUSE NO. 2448, MAULI JAGRAN COMPLEX, CHANDIGARH - 160102.  
(Workman)

AND

1. CHIEF ENGINEER, CP DIVISION NO.2, ADDITIONAL DELUXE BUILDING, SECTOR 9, CHANDIGARH.
2. XEN, SDE, SUB-DIVISION NO.3 (ROAD), ADDITIONAL DELUXE BUILDING, SECTOR 9, CHANDIGARH (Management)

**AWARD**

1. The workman, Poongothai, has filed statement of claim under Section 2-A(2) of the Industrial Disputes Act, 1947 (*hereinafter in short called 'ID Act'*), wherein it is averred that she has been in the service of the management w.e.f. 01.10.1980 as W/Coolie and all along the tenure of service, her work & performance has been satisfactory. No disciplinary action whatsoever has been taken by the management against her except changing her date of birth despite the fact that the workman had submitted her duly attested affidavit and documents pertaining to her date of birth. Even in the muster roll the workman has been shown to be educated 6th Standard, wherein in the school certificate her date of birth has been recorded as 09.06.1964. The management is using colourable exercise of power by showing her date of birth as 13.02.1958 at their own whims and fancies due to obvious reasons and forced the workman to run from pillar to post despite the fact that she had made representation along with duly sworn affidavit on 02.12.2016 and 06.12.2017 but no action has been initiated by the management to correct the clerical mistake to change her date of birth from incorrect date 13.02.1958 to correct date 09.09.1964 which has been shown in her school certificate, PAN card and Aadhar card as well. The management has accepted affidavit of other similarly situated employees pertaining to date of birth without obtaining any proof of date of birth whereas she has submitted school certificate, PAN card, Aadhar card as proof of her date of birth. Despite this her date of birth has not been corrected by the management, which is totally discriminatory and hit any Articles 14 & 16 of the Constitution of India. The workman sent legal notice on 18.01.2018 through her representative for correction of her date of birth but no action was taken. Then, the workman was compelled to send reminder on 26.02.2018. Instead of taking action on the representations as well as demand notice the management forcibly retired the workman on 28.02.2018 without inquiry, show cause notice and without any retiral benefits, which is discriminatory illegal, unjust, arbitrary, unfair labour practice and violation of provisions of the ID Act. The workman was in service of the management continuously since 01.10.1980 and completed 240 days of service in each calendar year during her tenure. The management neither paid retrenchment compensation nor notice pay, which is in violation to the mandate of Section 25-F of the ID Act. The retirement order is in fact termination of the services of the workman by way of unfair labour practice. The modus operandi of the management is to throw away the workman at their own volition without verification of actual age of employee. The management terminated the services of old employees without following the rule of terminating the services of new entrants, which is in violation to Section 25-G & 25-H of the ID Act. Thus, prayer is made that the termination of the workman prior to the date of her superannuation as per her correct date of birth 09.06.1964 is illegal and unjustified, thus, the workman may be reinstated with continuity of service, full back wages along with entire consequential benefits.



2. On notice, the managements appeared through its representative Shri Mohan Kalra and thereafter Shri Harpal Singh - Law Officer represented the management. The managements contested the claim by filing joint written statement on 05.11.2018 wherein it is stated that the workman is seeking correction in her date of birth, which was given by her at the time of joining the service and that too way back in the year 1980. On the basis of the information supplied by the workman, her name, her father's name and her date of birth has been recorded in the list for almost two decades. The workman never raised any objection for the correction of date of birth. Therefore, the present application is liable to be dismissed being badly time barred. The plea taken by the workman that her date of birth has been wrongly recorded by the person, who filled the particular details of the workman at the time of entering into the service cannot be taken into consideration at this stage as the workman has been retired on 28.02.2018. The date of birth can only be changed once within five years after appointment as per rules in Note 6 under FR 56 of the Fundamental Rules. The date of birth has been taken in the notification as per available office record. The workman should have approached the authorities in this regard at much early stage but the workman chosen to sit quite for merely two decades. After retirement the workman cannot be permitted to raise this issue now. The law is now well settled that once an employee has declared a particular as his date of birth at the time of entering into the service and has not raised any objection on the same time and even after getting opportunities for this purpose. No amount of evidence can help in getting his / her date of birth corrected at the fag end of his carrier. The workman is stopped by her own act and conduct from raising any such issue after lapse of decade. In the present case, the situation is even more worst as the workman retired on 28.02.2018. The workman is eligible for retiral / pensionary benefits as admissible under the rules in view of the judgment of Hon'ble Supreme Court of India dated 03.04.2014 in Civil Appeal No.6779 of 2009 titled U.T. Chandigarh & Another *Versus* Sampat Singh & Another and the subsequent policy framed by the Chandigarh Administration for regularisation of daily wage and work charge employees issued *vide* Departmental of Personnel, Chandigarh Administration *vide* their letter No.28/64-IH(7)2015/5459 dated 13.03.2015 and further clarification given by DOP, U.T. UO No. 28164-IH(7)-2015/26166 dated 23.12.2015 conveyed to their office *vide* SEC-II No.2015/4817-20 and 27.03.2016, Chandigarh and further clarification *vide* UO No.28164-IH(7)-2016/30053 dated 02.11.2016. Prayer is made that the claim application may be dismissed.

3. The workman filed replication wherein the contents of written statement except admitted facts of claim application are denied as wrong and averments of claim statement are reiterated.

4. From the pleadings of the parties, following issues were framed *vide* order dated 15.04.2019 :—

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief she is entitled to, if any ? OPW
2. Relief.

5. In evidence, the workman, Pongothia, examined herself as AW1 and on 09.07.2019 tendered her affidavit Exhibit 'WM1/A' along with documents Exhibit 'WM2' to Exhibit 'WM4'. No document is numbered as 'WM1'. The workman was re-examined as WM1 on 17.03.2022 and tendered her affidavit Exhibit 'WM1/A' along with documents Exhibit 'WM5' to Exhibit 'WM9'.

**Exhibit 'WM2'** is photocopy of the identity card of the workman (her name spelled as Pungodai) issued by Chandigarh Administration incorporating her date of birth 09.06.1964.

**Exhibit 'WM3'** is copy of PAN card of the workman bearing her name as Pungodai.

**Exhibit 'WM3'** is copy of the seniority list incorporating name of applicant and other particulars at serial No.213. In the said entry name of the workman is Pun Godai, occupation W/Coolie, Educational Qualification 6th, Date of birth 13.02.1958.

**Exhibit 'WM4'** is copy of certificate dated 29.03.2019 issued by Head Master, Panchayat Union Primary School, Melivarun, Mangalore Union.

**Exhibit 'WM5'** is copy of the details of daily wage employees of Mechanical Sub-division as on 21.04.2000.

**Exhibit 'WM6'** (also tendered into evidence *vide* Exhibit 'WM3') is copy of the seniority list incorporating name of applicant and other particulars at serial No.213. In the said entry name of the workman is Pun Godai, occupation W/Coolie, Educational Qualification 6th, Date of birth 13.02.1958.



**Exhibit 'WM7'** is copy of order No.287 dated 28.07.2020 issued by the Office of Executive Engineer, CP Division No.2 (R) whereby the services of daily wage / work charge employees were regularised.

**Exhibit 'WM8'** is copy of the seniority list of daily wage employees of CP Division No.2, Chandigarh as on 16.08.2012.

**Exhibit 'WM9'** is copy of tentative join seniority list of daily wage Beldars / Women Coolies (8th / 10th passed)

On 03.08.2022 the workman closed her evidence.

6. On the other hand, the management examined MW1 Surinder Singh Grewal - Sub-divisional Engineer (Roads), Sub-Division No.3, who tendered his affidavit Exhibit 'MW1/A' along with document i.e. authority letter Exhibit 'M1'. On 30.09.2022 learned Law Officer closed the evidence on behalf of the management.

7. I have heard the arguments of learned representative for the parties and perused the judicial file. My issue-wise finding are as below:-

**Issue No. 1 :**

8. Onus to prove this issue is on the workman.

9. Under this issue the workman Poongothai examined herself as AW1 and re-examined herself as WM1 and *vide* her affidavits Exhibits 'WM1/A' deposed the entire contents of claim statement. The workman supported her oral version with documents Exhibits 'WM2' to Exhibit 'WM9'.

10. On the other hand, the managements examined MW1 Surinder Singh Grewal, Sub-Divisional Engineer, Roads Sub-division No.3, who tendered his affidavit Exhibit 'MW1/A' and deposed the entire contents of written reply.

11. From the oral as well as documentary evidence led by the parties, it comes out that admittedly the workman joined the services as W/Coolie on daily wages in May 1982. At the time of entry into evidence her date of birth was recorded in the office record as 13.02.1958. The workman has alleged that her date of birth is incorrectly recorded as 13.02.1958 in the official record of the management instead of her correct date of birth i.e. 09.06.1964. The particulars of the employee at the time of new entry to the management are recorded by the official of the management, therefore, the management has mistaken in recording the incorrect date of birth of the workman. In Exhibit 'WM3' / Exhibit 'WM6' at serial No.213 the educational qualification of the workman is recorded as 6th standard and her date of birth is recorded as 13.02.1958, whereas in the identity issued by the Chandigarh Administration / Exhibit 'WM2' and PAN card Exhibit 'WM3', her date of birth is correctly recorded as 09.06.1964. The workman further alleged that she moved representations along with duly sworn affidavit on 02.12.2016 and 06.12.2017 seeking to correct her date of birth from 13.02.1958 to 09.06.1964 on the basis of supporting documents i.e. identity issued by the Chandigarh Administration / Exhibit 'WM2' and PAN card Exhibit 'WM3' as well as copy of her aadhar card but the management did not correct her date of birth whereas the date of birth of the other employees was corrected. To support her plea learned representative for the workman referred cross-examination of MW1 wherein he has stated that it is correct that as per Exhibit 'WM-X' i.e. copy of details of daily wage employees of Mechanical Sub-division as on 21.04.2001, which is photocopy of the office record, the date of birth of the workman is incorporated at serial No.37 as 29.06.1961. MW1 admitted as correct that in the seniority list of daily wage workers CP Division No.2 as on 16.08.2012 / Exhibit 'WM8' at serial No.387 the date of birth of the workman Anjali written as 15.06.1960 and at serial No.392 the date of birth of the workman Ram Charan is written as 01.03.1961. MW1 further admitted as correct that as per office order No.287 dated 28.07.2020 / Exhibit 'WM7' at serial No.37 the date of birth of workman Anjali is written as 19.08.1962 and at serial No.40 date of birth of the workman Ram Charan is written as 01.02.1962. By making reference to the aforesaid version of MW1, learned representative for the workman argued that first of all the date of birth of the workman is contradictory in the office record of the management i.e. it is 13.02.1958 in Exhibit 'WM3' / Exhibit 'WM6' and it is 29.06.1961 in Exhibit 'WM-X'. Further the date of birth of the workman Anjali has been corrected by the management from 15.06.1960 (shown in Exhibit 'WM8') to 19.08.1962 (shown in Exhibit 'WM7') and likewise the date of birth of the workman Ram Charan has been corrected by the management from 01.03.1961 (shown in Exhibit 'WM8') to 01.02.1962 (shown in Exhibit 'WM7'). Learned representative for the workman argued that the date of birth of many employees were changed during their service as reflected in the copy of tentative join seniority list of daily wage Beldars / women Coolies i.e. Exhibit 'WM9' but in the case of the workman the

correction in her date of birth is not made, although apart from the documents referred above she had also produced copy of the certificate dated 29.03.2019 issued by the Headmaster of her school namely Panchayat Union Primary School, Melivanur wherein her date of birth is incorporated as 09.06.1964. On the other hand, learned Law Officer for the management argued that the school leaving certificate of the workman Exhibit 'WM4' has no authenticity. Besides this the said school leaving certificate Exhibit 'WM4' was never presented before the management during her tenure by the workman. Even otherwise the date of birth of the workman was entered in her service record as per the information supplied by her at the time of joining service i.e. on 01.10.1980. The workman has retired on 28.02.2018. The date of birth can only be changed once within five years after appointment as per rules in Note 6 under FR 56 of the Fundamental Rules. The workman should have approached the authorities in this regard at much early stage but the workman chosen to sit quite for merely two decades. After retirement the workman cannot be permitted to raise this issue now.

12. To my opinion, as far as, school leaving certificate Exhibit 'WM4' is concerned, the same was issued on 29.03.2019 i.e. during the pendency of the present case (the demand notice forming basis of the present reference was raised on 07.03.2018). School leaving certificate Exhibit 'WM4' is not per-se admissible into evidence. No witness is examined to prove the school admission record of the workman. As far as document Exhibit 'WM9' is concerned it does not bear any date when it was issued. In case the management has corrected the date of birth of some of the employees in violation to rules in Note 6 under FR 56 of the Fundamental Rules, then it does not authorise the workman that in her case also the rules are to be ignored. As per the law laid down by Hon'ble Supreme Court of India in **Civil Appeal No. 2673 of 1986 decided on 02.04.1997 titled as State of Orissa Versus Ramanath Patnaik**, once the entry regarding the age is made in the service record and no attempt is made to have it corrected, subsequently any amount of evidence produced will be of no avail. The Hon'ble Supreme Court of India in another case i.e. **Civil Appeal No. 5489 of 2003 decided on 28.07.2005 titled as State of U.P. & Another Versus Shiv Narain Upadhyaya** held that Court, Tribunal should not deal with application for correction of date of birth unless a clear case is made out and that within a reasonable time as provided in rules. The law laid down by the Hon'ble Supreme Court of India in the judgments referred supra is applicable to the facts of the present case to an extent. In the present case, as per rule in FR 56 (Note 6) of the Fundamental Rules, which are undisputedly applicable to the workman, the applicant's name, father name, date of birth can only be changed within five years after appointment. The workman was appointed in the year 1980 and she did not move any application within five years from the date of joining service, to the management seeking to correct her date of birth. In this regard, the workman / WM1 in her cross-examination stated that prior to year 2014 she did not move any application to the management seeking correction of her date of birth. In view of the aforesaid version of the workman, the relief seeking to correct date of birth is barred by limitation. Consequently, the workman was retired on 21.02.2018 on attaining age of her superannuation as per date of birth recorded in the official record of the management. At the time of joining service, the workman got recorded her date of birth as 13.02.1958. Therefore, the retirement letter dated 21.02.2018 is legal and valid.

13. Accordingly, this issue is decided against the workman and in favour of the management.

**Relief :**

14. In the view of foregoing finding on the issue above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

The 10th October, 2022.

(Sd.). . .,  
(JAGDEEP KAUR VIRK),  
Presiding Officer,  
Industrial Tribunal & Labour Court,  
Union Territory Chandigarh.  
UID No.PB0152.

Secretary Labour  
Chandigarh Administration.

## CHANGE OF NAME

I, Ravinder Pathania, S/o Sh. Ram Sarup, R/o House No. 39, Badheri, Sector 41-D, Chandigarh, have changed my name from Ravinder Kumar to Ravinder Pathania.

[947-1]

I, Sonia Cheema, D/o Vijay Iqbal Singh Cheema and W/o Shaurya Tayal, R/o H. No. 201, Sector 35-A, Chandigarh, have changed my name from Sonia Cheema to Sonia Vijay Cheema.

[948-1]

I, Karan, Son of Late Sh. Baldev Raj Sharma, Residence of # 1476, Sctor 41-B, Chandigarh, have changed my name to Karan Sharma.

[949-1]

I, Nivedan Trehan, S/o Gaurav Trehan, # 1055, Sector 18-C, Chandigarh, have changed my name to Navi Trehan.

[950-1]

I, Naresh Kumar, S/o Budhu, # 439/1, Sector 25, Chandigarh, have changed my name to Suresh.

[951-1]

I, Rita Rani, W/o Sonu Kumar, # 56, Phase 1, Indira Awas Colony, Ramdarbar, Chandigarh, have changed my name to Reeta Rani.

[952-1]

I, Pankaj Bahuguna, S/o Prem Datt Bahuguna, R/o # Guga Mari Mandir, Sector 20-C, Chandigarh, have changed my name from Pankaj Bahuguna to Pankaj.

[953-1]

I, Aman, S/o Randhir Singh, # 1849, Indira Colony, Manimajra, Chandigarh, have changed my name to Aman Kumar.

[954-1]

I, Sahibpreet Kaur Khurana, D/o Parneet Kaur, R/o H. No. 980, Sector 41-A, Chandigarh, have changed my name to Sahibpreet Kaur.

[955-1]

I, Rajneesh Kour, W/o Sh. Ajay Pal Singh, Permanent resident of # 1172, Sector 8-C, Chandigarh, have changed my name to Nisha Kour.

[956-1]

I, Shubham, S/o Biram Pal, R/o H. No. 1490, Sector 25, Chandigarh, changed my name Shubham Birla.

[957-1]

I, Phaudar Sahani, S/o Lutan Sahni, R/o H. No. 183/5, Hallomajra, Chandigarh, have changed my name from Ram Chander to Phaudar Sahani.

[958-1]

I, Neetu Gupta, W/o Charan Kishore Singla, R/o 772, Sector 43-A, Chandigarh, changed my name Prerna Singla.

[959-1]

I, Harleen Kaur Litt, D/o Rajinder Pal, R/o # 5748/1, Sector-38 West, Chandigarh, is hereby declare that in my date of birth certificate the name of father is mentioned Rajinder Singh but the actual name of my father is Rajinder Pal and my mother name is mentioned as Ishwinder Kaur instead of Eshwinder Kaur. In future my parents name may be treated as Rajinder Pal and Eshwinder Kaur.

[960-1]



I, Ruby Singh, W/o Arbinder Singh, # 47, Sector 19-A, Chandigarh, have changed my name to Malvinder Kaur.

[961-1]

I, Maya Devi, W/o Bhim Singh, R/o House No. 2137/2, Sector 37-C, Chandigarh, have changed my name from Maya Devi to Maheshwari.

[962-1]

I, Santosh, W/o Ashok Kumar, # 1299/1, Sector 19-B, Chandigarh, have changed my name to Santosh Kumari.

[963-1]

I, Monica Nagpal, W/o Vivek Srivastava, R/o # 1105, Sector 33-C, Chandigarh, have changed my name to Monica Sachdeva.

[964-1]

I, Shubham, S/o Sh. Ram Sarup, R/o H. No. 687, Dadumajra Colony, Sector 38 West, Chandigarh, have changed my name from Shubham to Shubham Chauhan.

[965-1]

I, Navdeep, S/o Raj Kumar, House No. 4490-B, Sector 46-D, Chandigarh, have changed my name to N.K. Verma.

[966-1]

I, Subodh, S/o Sh. Shiv Prasad Semwal, R/o # 26, Block No. 114, ITBP Complex, Sector 32-A, Chandigarh, have changed my name to Subodh Semwal.

[967-1]

I, Naina, D/o Sanjeev Kumar, House No. 1749-B, Small Flats, Dhanas, Chandigarh, have changed my name from Naina to Naina Hellan.

[968-1]

I, Sandeep, S/o Charan Singh, # 485, Maloya, Chandigarh, have changed my name to Sandeep Kumar.

[969-1]

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